### FORM D

## UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

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# FORM D

NOTICE OF SALE OF SECURITIES PURSUANT TO REGULATION D, SECTION 4(6), AND/OR G EXEMPTION

	UNIFORM LIMITED OFFERIN
Washington, DC	

**OMB** OMB Number: 3235-0076 Expires: April 30, 2008 Estimated average burden hours per

form.....16.00

S	EC USE ONLY	
Prefix	DATE RECEIVED	Serial

Name of Offering ([]	check if this is an amendment an	d name has chan	ged, and indicate ch	ange.)		
Series B Preferre	ed Stock and Warrant					
Filing Under (Check b	ox(es) that apply): []Rule 504	[]Rule 505	[X]Rule 506	[]Section 4(6)	[ ]ULOE	
Type of Filing: [x]Ne	w Filing []Amendment					
		A. BASIC IDEN	TIFICATION DA	TA		
1. Enter the informat	on requested about the issuer	•				
Name of Issuer ([] che	eck if this is an amendment and r	ame has change	d, and indicate chan	ge.)		
Suniva, Inc.						
Address of Executive	Offices (Number and Street, C	ity, State, Zip Code)	•	Telephon	e Number (Including Area Code)	
75 5th Street, NV	V, Suite 215, Atlanta, Ge usiness Operations (Number and Str	orgia 30308	BBOCECO:	CD 404-477	7-2700	
Address of Principal B	usiness Operations (Number and St	eet, City, State, Zip	はどうこと	Telephon	e Number (Including Area Code)	
(if different from Executive (	Offices)		EED 1 Leann			
Brief Description of B	usiness		LED 5 1 5000			
Development of S	Solar Power Technology		THOMSON		18	
Type of Business Orga	nization		FINANCIAL			
[X] corporation	[] limited partnership, alrea	idy formed[] ot	her (please specify)	: ' <b>"</b>		
El huginess trust	[ ] limited partnership to b	a formed			00075330	

Month Year

Actual or Estimated Date of Incorporation or Organization:

[0][6][0][7] [X] Actual []Estimated

Jurisdiction of Incorporation or Organization: (enter two-letter U.S. Postal Service abbreviation for State:

[ ] limited partnership, to be formed

CN for Canada; FN for other foreign jurisdiction)

# **GENERAL INSTRUCTIONS**

#### Federal:

business trust

Who Must File: All issuers making an offering of securities in reliance on an exemption under Regulation D or Section 4(6), 17 CFR 230.501 et seq. or 15 U.S.C. 77d(6).

When to File: A notice must be filed no later than 15 days after the first sale of securities in the offering. A notice is deemed filed with the U.S. Securities and Exchange Commission (SEC) on the earlier of the date it is received by the SEC at the address given below or, if received at that address after the date on which it is due, on the date it was mailed by United States registered or certified mail to that address.

Where to File: U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549

Copies Required: Five (5) copies of this notice must be filed with the SEC, one of which must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

Information Required: A new filing must contain all information requested. Amendments need only report the name of the issuer and offering, any changes thereto, the information requested in Part C, and any material changes from the information previously supplied in Parts A and B. Part E and the Appendix need not be filed with the SEC.

Filing Fee: There is no federal filing fee.

### State:

This notice shall be used to indicate reliance on the Uniform Limited Offering Exemption (ULOE) for sales of securities in those states that have adopted ULOE and that have adopted this form. Issuers relying on ULOE must file separate notice with the Securities Administrator in each state where sales are to be, or have been made. If a state requires the payment of a fee as a precondition to the claim for the exemption, a fee in the proper amount shall accompany this form. This notice shall be filed in the appropriate states in accordance with state law. The Appendix to the notice constitutes a part of this notice and must be completed.

## **ATTENTION**

Failure to file notice in the appropriate states will not result in a loss of the federal exemption. Conversely, failure to file the appropriate federal notice will not result in a loss of an available state exemption unless such exemption is predicated on the filing of a federal notice.

> Persons who respond to the collection of information contained in this form are not Required to respond unless the form displays a currently valid OMB control number.

SEC 1972 (6-02)

### A. BASIC IDENTIFICATION DATA

Enter the information requested for the following:

- Each promoter of the issuer, if the issuer has been organized within the past five years;
- Each beneficial owner having the power to vote or dispose, or direct the vote or disposition of, 10% or more of a class of equity securities of the issuer;
- Each executive officer and director of corporate issuers and of corporate general and managing partners of partnership issuers; and
- Each general and managing partner of partnership issuers.

Check box(es) that apply: []Promoter	[X]Beneficial Owner	[X]Executive Officer	[X ]Director Manag	[ ]General and/or ging Partner
Full Name (Last Name first, if individual)				
Baumstark, John				
Business or Residence Address (Number and	d Street, City, State, Zip Coo	le)		
75 5th Street, NW, Suite 215, Atla	anta, Georgia 30308			
Check box(es) that apply: []Promoter	[X]Beneficial Owner	[X] Executive Officer	[X]Director	[ ]General and/or Managing Partner
Full Name (Last Name first, if individual)				
Rohatgi, Ajeet			. =	· <del>-</del> -
Business or Residence Address (Number and	d Street, City, State, Zip Coo	le)		
75 5th Street, NW, Suite 215, Atla	anta, Georgia 30308		_	
Check box(es) that apply: []Promoter	[ ]Beneficial Owner	[X] Executive Officer	[]Director	[ ]General and/or Managing Partner
Full Name (Last Name first, if individual)				
Modak, Jim				·
Business or Residence Address (Number and	d Street, City, State, Zip Coo	ie)		
75 5th Street, NW, Suite 215, Atl	anta, Georgia 30308			<del></del>
Check box(es) that apply: []Promoter	[ ]Beneficial Owner	[]Executive Officer	[X]Director	[ ]General and/or Managing Partner
Full Name (Last Name first, if individual)				
Sakoda, Jon				
Business or Residence Address (Number an				
c/o New Enterprise Associates, 54	425 Wisconsin Avenu	e, Suite 800, Chevy C	<b>Chase, MD 208</b>	15
Check box(es) that apply: []Promoter	[]Beneficial Owner	[ ]Executive Officer	[X] Director	[ ]General and/or Managing Partner
Full Name (Last Name first, if individual)  Viswanathan, Ravi				
Business or Residence Address (Number an	d Street, City, State, Zip Co.	de)		
c/o New Enterprise Associates, 2	490 Sand Hill Road, I	Menlo Park, CA 9402	.5	
Check box(es) that apply: []Promoter	[ ]Beneficial Owner	[ ]Executive Officer	[X]Director	[ ]General and/or Managing Partner
Full Name (Last Name first, if individual)	<u></u>			
Weller, Harry				<u></u>
Business or Residence Address (Number an				
c/o New Enterprise Associates, 5	425 Wisconsin Avenu	ie, Suite 800, Chevy C	Chase, MD 208	

(Use blank sheet or copy and use additional copies of this sheet as necessary.)

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- Each promoter of the issuer, if the issuer has been organized within the past five years;
- Each beneficial owner having the power to vote or dispose, or direct the vote or disposition of, 10% or more of a class of equity securities of the issuer;
- Each executive officer and director of corporate issuers and of corporate general and managing partners of partnership issuers; and
- Each general and managing partner of partnership issuers.

Full Name (Last Name first, if individual)  New Enterprise Associates 12, Limited Partnership  Business or Residence Address (Number and Street, City, State, Zip Code)  1119 St. Paul Street, Baltimore, MD 21202  Check box(es) that apply: [] Promoter [X] Beneficial Owner [] Executive Officer [] Director [] General and/or Managing Partner  Full Name (Last Name first, if individual)  Goldman Sachs through Cogentrix Energy, LLC, its subsidiary  Business or Residence Address (Number and Street, City, State, Zip Code)  9405 Arrowpoint Boulevard, Charlotte, NC 28273-8110  Check box(es) that apply: [] Promoter [X] Beneficial Owner [] Executive Officer [] Director [] General and/or Managing Partner  Full Name (Last Name first, if individual)  Business or Residence Address (Number and Street, City, State, Zip Code)  311 S. Wacker Drive, Suite 1650, Chicago, IL 60606  Check box(es) that apply: [] Promoter [X] Beneficial Owner [] Executive Officer [] Director [] General and/or Managing Partner  Full Name (Last Name first, if individual)  Business or Residence Address (Number and Street, City, State, Zip Code)  Check box(es) that apply: [] Promoter [] Beneficial Owner [] Executive Officer [] Director [] General and/or Managing Partner  Full Name (Last Name first, if individual)  Business or Residence Address (Number and Street, City, State, Zip Code)  Check box(es) that apply: [] Promoter [] Beneficial Owner [] Executive Officer [] Director [] General and/or Managing Partner  Full Name (Last Name first, if individual)  Business or Residence Address (Number and Street, City, State, Zip Code)  Check box(es) that apply: [] Promoter [] Beneficial Owner [] Executive Officer [] Director [] General and/or Managing Partner  Full Name (Last Name first, if individual)  Business or Residence Address (Number and Street, City, State, Zip Code)	Check box(es) that apply: [ ]Promoter	[X]Beneficial Owner	[]Executive Officer	[]Director	[ ]General and/or ging Partner
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Check box(es) that apply: []Promoter []Beneficial Owner []Executive Officer [] Director []General and/or Managing Partner  Full Name (Last Name first, if individual)  Business or Residence Address (Number and Street, City, State, Zip Code)  Check box(es) that apply: []Promoter []Beneficial Owner []Executive Officer [] Director []General and/or Managing Partner  Full Name (Last Name first, if individual)  Business or Residence Address (Number and Street, City, State, Zip Code)  Check box(es) that apply: []Promoter []Beneficial Owner []Executive Officer [] Director []General and/or Managing Partner  Full Name (Last Name first, if individual)  Check box(es) that apply: []Promoter []Beneficial Owner []Executive Officer []Director []General and/or Managing Partner  Full Name (Last Name first, if individual)	Check box(es) that apply: []Promoter	[X]Beneficial Owner	[] Executive Officer	[]Director	
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Check box(es) that apply: [ ]Promoter [ ]Beneficial Owner [ ]Executive Officer [ ]Director [ ]General and/or Managing Partner  Full Name (Last Name first, if individual)	Full Name (Last Name first, if individual)		<del>_</del>		
Check box(es) that apply: [ ]Promoter [ ]Beneficial Owner [ ]Executive Officer [ ]Director [ ]General and/or Managing Partner  Full Name (Last Name first, if individual)	Business or Residence Address (Number and	Street City State Zin Cod	(e)		
Full Name (Last Name first, if individual)	Dushiess of Residence Madress (Manioer and	outer, only, oute, hip oou	,		
	Check box(es) that apply: []Promoter	[ ]Beneficial Owner	[ ]Executive Officer	[ ]Director	
Business or Residence Address (Number and Street, City, State, Zip Code)	Full Name (Last Name first, if individual)				·
	Business or Residence Address (Number and	Street, City, State, Zip Cod	le)		
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(Use blank sheet or copy and use additional copies of this sheet as necessary.)

				b	i, infor	RMATION	ABOUT	OFFER:	ING				
				<del></del>								Yes	No
			issuer inten idix, Colum				estors in th	is offerin	g?			[]	[X]
1. What is	s the minin	num invest	ment that w	ill be accep	ted from	any individ	lual?		•••••••	•••••		<u>\$0</u> Ves	No
2. Does th	ne offering	permit joir	ıt ownership	o of a singl	e unit?		••••••			•••••	••••••	[X ]	[]
remun person	eration for or agent of ive (5) pers	solicitation of a broker	n of purcha	sers in con egistered w	nection with the SI	rith sales of EC and/or v	f securitie: with a stat	s in the o e or state	ffering. I s, list the	f a person name of t	n to be lis the broke	mmission or sted is an as r or dealer. on for that b	sociate If mor
Full Nam	e (Last nar	ne first, if i	ndividual)								<u> </u>		
Advan	ced Eau	ities, Inc											
			(Number a	nd Street.	City. State	. Zip Code	.)						
			uite 165(	•		•	,						
		Broker or			<del></del>				-		-	· -	
			., FFP Se				ed Secu	rities, l	nc.				
States in	which pers	on listed ha	as solicited	or intends t	o solicit p	urchasers							
(Charle II)	A II Cananati	au abaale in	ıdividual St	****						[ ] A1	l States		
(Check 7/ [AL]X	[AK]		[AR] X		ICOLX	[CT] X	IDELX	(DC) X	IFL1 X	IGAl X	THII X	[ID] X	
[IL] X	[IN] X	[IA] X	[KS] X	[KY] X	[LA] X	[ME] X	[MD] X	[MA] X	[MI] X	[MN] X	[MS] X		
[MT] <b>X</b>	[NE] X	[NV] X	[NH] X				[NC] X	[ND] X	[OH] X	[OK] X	[OR] X	[PA] X	
[RI]	[SC] X	[SD] X	[TN] X	[TX] X	[UT] <b>X</b>	[VT] <b>X</b>	[VA] <b>X</b>	[WA] X	[WV] X	[WI] X	[WY]	[PR]	
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Name of	Associated	Broker or	Dealer										
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Name of <b>Advan</b>	Associated ced Equ	Broker or ities, Inc	Dealer	ecurities or intends	, Inc., I	irst Alli ourchasers	ed Secu	rities,	inc.			<u></u>	
Name of Advan	Associated ced Equ which pers	Broker or ities, Income on listed has	Dealer c., FFP Seas solicited	or intends	to solicit p	ourchasers					States		
Name of Advan	Associated ced Equ which pers	Broker or ities, Income on listed has	Dealer , FFP So	or intends	to solicit p	ourchasers				[] All	States		
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C. OFFERING FRICE, NUMBER OF INVESTORS, EXTENSES AND USE OF TROCE	5155	
1. Enter the aggregate offering price of securities included in this offering and the total amount already sold. Enter "0" if answer is "none" or "zero." If the transaction is an exchange offering, check this box [] and indicate in the columns below the amounts of the securities offered for exchange and already exchanged.		· <b>"</b>
Type of Security	Aggregate Offering Price	Amount Aiready Sold
Debt	\$	\$
Equity	\$ 50,000,000	\$ <u>47,349,983</u>
[] Common [X] Preferred		
Convertible Securities (including warrants)	\$0*	\$ 0*
Partnership Interests	\$	\$
Other (Specify©	\$	<u> </u>
Total	\$ 50,000,000	\$ 47,349,983
10(4)	\$ <u></u>	Ψ <u>Ψ7,542,205</u>
Answer also in Appendix, Column 3, if filing under ULOE		
2. Enter the number of accredited and non-accredited investors who have purchased securities in this offering and the aggregate dollar amounts of their purchases. For offerings under Rule 504, indicate the number of persons who have purchased securities and the aggregate dollar amount of their purchases on the total lines. Enter "0" if answer is "none" or "zero."		
	Number Investors	Aggregate Dollar Amount
	10	of Purchases
Accredited Investors	19	\$ <u>47,349,983</u>
Non-accredited Investors		\$
Total (for filings under Rule 504 only)	<del></del>	<u> </u>
3. If this filing is for an offering under Rule 504 or 505, enter the information requested for all securities sold by the issuer, to date, in offerings of the types indicated, in the twelve (12) months prior to the first sale of securities in this offering. Classify securities by type listed in Part C-Question 1.		
	Type of Security	Dollar Amount
Type of Offering		Sold
Rule 505		¢
Regulation A	<del></del>	\$ \$
Rule 504		\$
Total	<del></del>	J
4. a. Furnish a statement of all expenses in connection with the issuance and distribution of the securities in this offering. Exclude amounts relating solely to organization expenses of the issuer. The information may be given as subject to future contingencies. If the amount of an expenditure is not known, furnish an estimate and check the box to the left of the estimate.		
Transfer Agent's Fees	[]	\$
Printing and Engraving Costs	[]	\$
Legal Fees	[x]	\$ <u>60,000</u>
Accounting Fees	[]	\$
Engineering Fees	[]	\$
Sales Commissions (specify finders' fees separately)	[]	\$_1,130,000
Other Expenses (identify)	[]	\$
Total	[x]	\$ <u>1,190,000</u>
*warrant issued to placement agent as compensation		

. C. OFFERING PRICE, NUMBER OF INVESTORS, EX	PENSES AND USE OF	F PRO	CEEDS		
b. Enter the difference between the aggregate offering price  Question 1 and total expenses furnished in response to Part C- the "adjusted gross proceeds to the issuer."	given in response to	Part C	; <b>-</b>	:	\$ 48,810,000
5. Indicate below the amount of the adjusted gross proceeds to the if for each of the purposed shown. If the amount for any purpose is check the box to the left of the estimate. The total of the payme gross proceeds to the issuer set forth in response to Part C - Questions.	s not known, furnish esti ints listed must equal the	mate a	nd		
gross proceeds to the issuer set forth in response to Part C - Ques	11011 4.0. above.		Payments		
			Officers Directors Affiliate	&	Payments To Others
Salaries and fees		[]			\$
Purchase of real estate		[]	\$	[]	\$
Purchase, rental or leasing and installation of machinery and equipm	ent	[]	\$	[]	\$
Construction or leasing of plant buildings and facilities	***************************************	[]	\$	[]	\$
Acquisition of other businesses (including the value of securities in that may be used in exchange for the assets or securities of another merger)	r issuer pursuant to a	[ ]	\$	[]	\$
Repayment of indebtedness		[]	\$	[]	•
Working capital		[]	\$		\$48,810,000
Other (specify)		[]	\$	-	\$ 15,515,555
Cinci (speers)		( )	<b></b>		
Column Totals	*******************************	[]	\$	[]	\$
Total Payments Listed (column totals added)			[X]	\$ <u>48,810,0</u>	000
					•
D FF	DERAL SIGNATURE				
D. P.S.	DERAE SIGNATURE				
The issuer has duly caused this notice to be signed by the undersignal to the information furnished by the issuer to furnishes staff, the information furnished by the issuer to any non-accredited	to the U.S. Securities a	nd Exc	hange Comm	ission, upon v	er Rule 505, the written request of
Issuer (Print or Type) Signature				Date	
Suniva, Inc.		<del>-</del> -	<b>,</b>	2/1	2/08
Name of Signer (Print or Type) Title of Sig	ner (Print or Type)				
John Baumstark Chief Ex	ecutive Officer				
A7	TENTION	_		<u>-</u> .	
Intentional misstatements or omissions of fact co	onstitute federal crin	ninal	<u>violations.</u>	(See 18 U.S	S.C. 1001.)

